



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Radiation Systems, Inc.--Request for  
Reconsideration  
File: B-222585.6  
Date: September 11, 1986

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### DIGEST

1. Where an amendment merely reopens competition and makes no substantial change in the agency's needs, it does not provide a new period for timely filing a protest against earlier amendments.
2. We have considered numerous protests against the use of negotiated procurements and the propriety of evaluation criteria so an untimely protest raising those issues will not be considered under our significant issue exception.

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### DECISION

Radiation Systems, Inc. (RSI), requests reconsideration of Radiation Systems, Inc., B-222585.5, Aug. 6, 1986, 86-2 C.P.D. ¶ \_\_\_, in which we dismissed RSI's protest against the conduct of solicitation No. N41756-85-R-8511, issued by the Navy Engineering Logistics Office for an antenna tracking system.

Our prior decision is affirmed.

A contract under this solicitation had been awarded to Electronic Space Systems Corporation, but was terminated for the convenience of the government following a protest to our Office by TIW Systems, Inc., that meaningful discussions had not been conducted. Amendment 00006, dated June 26, 1986, followed and reinstated the solicitation and advised offerors that after discussions were conducted, new best and final offers would be requested.

RSI had contended that because of the issuance of amendment 00006, (1) this negotiated procurement should be conducted under two-step sealed bidding procedures and (2) that the evaluation criteria should be changed to place more emphasis on cost rather than technical and management considerations.

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In Radiation Systems, Inc., B-222585.5, supra, we held that amendment 00006 merely reopened competition and since both of RSI's grounds of protest, the use of the two-step procurement method and the evaluation criteria, were premised on the change in amendment 00005 from a cost plus to a fixed-price contract, those issues were untimely since they were not raised prior to amendment 00005's closing date. See also Radiation Systems, Inc., B-222585.2, June 6, 1986, 86-1 C.P.D. ¶ 534, in which we held RSI's protest of the evaluation criteria was untimely.

RSI now argues that amendment 00006 did not merely reopen the solicitation but was, in reality, a resolicitation. RSI states that to dismiss its protest without an examination of the merits is improper because of the acknowledged improprieties in the conduct of this solicitation. In the event that we rule RSI's protest untimely it requests that we nevertheless consider its protest as a significant issue.

We do not agree with RSI that amendment 00006 reflects a resolicitation of the Navy's needs so as to make RSI's protest timely. Amendment 00006 only reopened the competition on the same procurement without any substantial change in the Navy's needs. This case is distinguishable from Syva Company--Reconsideration, B-218359.2, May 6, 1985, 85-1 • C.P.D. ¶ 503, in which an amendment to a solicitation was considered a de facto new procurement because it solicited a subsequent fiscal year's needs since the prior fiscal year's needs had been met. Thus, a protest of the amended solicitation was timely even though the request for proposals contained a similar provision.

We will review an untimely protest where we determine that the protest raised issues significant to the procurement system. 4 C.F.R. § 21.2(c) (1986). The significant issue exception will be invoked only where the subject matter of the protest is of widespread interest or importance to the procurement community and involves a matter that has not been considered in a previous decision. M. C. Dean Electrical Contracting, Inc.-- Reconsideration, B-221992.3, Mar. 12, 1986, 86-1 C.P.D. ¶ 248. We have considered numerous protests against an agency's use of negotiated procurements and on the propriety of an agency's evaluation criteria. See The Saxon Corporation, B-221054, Mar. 6, 1986, 86-1 C.P.D. ¶ 225 and Information Ventures, Inc., B-221287, Mar. 10, 1986, 86-1 C.P.D. ¶ 234. Accordingly, we will not consider this protest on the merits under our significant issue exception.

Our decision is affirmed.

*for Superior Spro*  
Harry R. Van Cleve  
General Counsel